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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT
DIVISION SEVEN

THE PEOPLE,

Plaintiff and Respondent,

v.

LUIS J. RODRIGUEZ,

Defendant and Appellant.

B210232

(Los Angeles County
Super. Ct. No. TA091961)

APPEAL from a judgment of the Superior Court of Los Angeles County.
Arthur M. Lew, Judge. Affirmed.

Patricia Scott, under appointment by the Court of Appeal, for Defendant
and Appellant.

Edmund G. Brown, Jr., Attorney General, Dane Gillette, Chief Assistant
Attorney General, Pamela C. Hamanaka, Senior Assistant Attorney General, Susan
Sullivan Pithey and Mary Sanchez, Deputy Attorneys General, for Plaintiff and
Respondent.

Luis J. Rodriguez was convicted of one count of first degree murder and the jury also returned true findings on gang and weapons enhancements. Before this court appellant challenges only the jury's true finding on the gang enhancement. Specifically he argues that there was insufficient evidence that the charged crime was committed: (1) by a "criminal street gang" as the term is defined under Penal Code section 186.22, subdivisions (e), (f);¹ or (2) for the benefit or in association with a gang. Appellant further claims that the enhancement cannot stand because the court erred in allowing the gang expert to exceed the scope of proper expert testimony in opining on the ultimate issue of appellant's intent. Finally, appellant claims that the murder was not committed with the specific intent to promote, further or assist the gang in committing additional criminal activity. Appellant's claims lack merit. First, the prosecution presented sufficient evidence that appellant's gang has as one of its "primary activities" the commission of crimes enumerated in section 186.22, subdivision (e), and that it has engaged in a "pattern" of criminal gang activity. Furthermore, the evidence presented at trial was sufficient to show that the murder was gang-related and the testimony and opinions offered by the expert were not beyond the scope of testimony gang experts have been traditionally permitted to give, and were appropriate to aid the lay jury in understanding the evidence. Finally, under California law, the prosecutor was not required to present proof that the murder was committed to further or promote future gang activities. Consequently, we affirm.

FACTUAL AND PROCEDURAL BACKGROUND

Events of June 24, 2007

In the early morning of June 24, 2007, Salvador DeAvila drove into the parking lot of Tam's Burgers in Paramount. Jose Maszano, Antonio Palomares, and Fausto Rojo were also in the car. Mr. DeAvila dropped his three passengers off in the parking lot and

¹ All statutory references are to the Penal Code unless otherwise indicated.

drove in to find a parking spot. As these passengers were walking into the parking lot, Mr. Maszano was almost hit by a white BMW that was backing out of a parking spot. Mr. Maszano and the driver of the BMW, Yashie Navarro, briefly argued. Mr. Maszano then leaned on the BMW's rear bumper as he talked on his cell phone. Mr. Navarro told Maszano to "get the fuck off his car." Mr. Maszano complied and walked away.

Codefendant Adrian Chavez then walked up to Mr. Maszano and told him to "get the fuck out of there." Mr. Maszano tried to ignore Chavez, but Chavez continued. He told Maszano, "This is Paramount Varrio. This is my Varrio. Get the fuck out of here." Chavez then identified himself as "Evil" and punched Mr. Maszano. Mr. Maszano fell to the ground and became unconscious. Chavez then took Mr. Maszano's cell phone and began to go through Mr. Maszano's pockets. Mr. Palomares, who was with Mr. Maszano, tried to pull Chavez off of Mr. Maszano. At that time, someone approached Mr. Palomares and said, "Do you know who he is?" "Don't be touching him" or "Don't be touching Evil." The person then hit Mr. Palomares in the nose and caused him to lose a contact lens. Palomares started to swing punches to defend himself.

When Mr. DeAvila, the victim, saw the struggle between his friends and Chavez, Mr. DeAvila ran over to aid his friends. Appellant, who was later identified as a member of Chavez's gang, shot Mr. DeAvila in the head. Mr. DeAvila collapsed and fell to the ground. Appellant continued shooting at Mr. DeAvila.

Appellant was arrested and charged with the murder of Mr. DeAvila and a gang enhancement allegation.

Detective Herrera's Expert Testimony at Trial

Detective Gabriela Herrera served as the gang expert in this case. She has been a police officer for fifteen years. Her primary duty is to investigate criminal street gangs, and she is an expert on the Paramount Varrio 13 gang ("PV13"). She collects intelligence about this gang by talking to community members as well as gang members. Detective Herrera testified to the following facts:

PV 13 has approximately 101 gang members. Their common symbol is PV 13 and the letter P. Their hand sign is an upright P with right hand. The gang's primary activities were "vandalism, robberies assaults to murder."

Francisco Bautista was a self-admitted gang member who was convicted of unlawful gun possession. He was arrested for that charge in June 2007. Detective Herrera was familiar with Bautista's case because her sergeant had arrested him.

The detective knew that appellant was a Paramount Varrio 13 gang member because of a field identification card where appellant admitted that he was a gang member. He also admitted his gang membership when he was arrested on July 30th 2007. His gang moniker is "Soldier Boy".

Detective Herrera also identified Adrian Chavez as a Paramount 13 gang member because of his several tattoos: PV 13; the letter P; Paramount Varrio on his back; V on his right arm; and the zip code 90723. She also testified that Chavez's moniker is "Evil" and that Tam's burgers was in PV 13's territory.

During Detective Herrera's examination, the prosecutor posed a hypothetical based on the facts of the case. Detective Herrera testified that in her opinion based on the hypothetical, the shooting was committed for the benefit of and the furtherance of a criminal street gang Paramount Varrio 13. She further testified that the shooting benefitted the gang because it enhanced the gang reputation as well as the reputation of the gang members who committed the crime. She stated that the crime promoted "fear and intimidation" within the surrounding communities. Detective Herrera also testified that when a gang member is disrespected by an individual such as refusing to leave when directed by a gang member, there is a violent response to that disrespect such as assault or murder. Additionally, other gang members are expected to defend the gang member who has been disrespected.

The jury found appellant guilty of murder and returned a "true" finding on the gang enhancement. He appeals.

DISCUSSION

Before this court appellant asserts a number of distinct complaints concerning the admission of the gang evidence. First, appellant argues that the prosecution did not prove the “criminal street gang” element of the gang enhancement by substantial evidence. Second appellant argues that the prosecution did not present substantial evidence that the murder was committed for the benefit of, or in association with a criminal street gang. Third, appellant contends that the prosecution elicited improper testimony from the gang expert. Last, he argues that the prosecution failed to provide sufficient evidence to prove specific intent to further *other* criminal activities. As we shall explain, none of these claims contains merit.

Legal Principles Governing the Admission of Gang Evidence.

A true finding on an allegation of a criminal street gang enhancement, requires proof the crime at issue was committed “for the benefit of, at the direction of, or in association with any criminal street gang, with the specific intent to promote, further, or assist in any criminal conduct by gang members” (§ 186.22, subd. (b)(1).) To prove a gang is a “criminal street gang,” the prosecution must demonstrate it has as one of its “primary activities” the commission of one or more of the crimes enumerated in section 186.22, subdivision (e), and it has engaged in a “pattern of criminal gang activity” by committing two or more such “predicate offenses.” (§ 186.22, subds.(e), (f); *People v. Gardeley* (1996) 14 Cal.4th 605, 617 (*Gardeley*).)

Our Supreme Court has repeatedly affirmed the use of expert testimony by law enforcement professionals who have experience in the area of gang culture and psychology to demonstrate a defendant’s intent and the gang-related activities to support a finding under section 186.22. (See, e.g., *Gardeley*, *supra*, 14 Cal.4th at p. 618 [expert testimony by police detective particularly appropriate in gang enhancement case to assist fact finder in understanding gang behavior]; *People v. Gonzalez* (2006) 38 Cal.4th 932, 944-946 [reaffirming *Gardeley* and admissibility of officer’s expert testimony in the area of gang culture and psychology]; see also *People v. Zepeda* (2001) 87 Cal.App.4th 1183, 1207-1208 [affirming admission of officer’s expert opinion that sole gunman who

displayed no gang signs during shooting acted to bolster gang and his own reputation in gang]; *People v. Olguin* (1994) 31 Cal.App.4th 1355, 1384 [“It is difficult to imagine a clearer need for expert explication than that presented by a subculture in which this type of mindless retaliation promotes ‘respect.’”].)²

Thus, gang expert testimony may properly be admitted to prove motive and intent. (See *People v. Funes* (1994) 23 Cal.App.4th 1506, 1518.) Expert testimony has repeatedly been offered to prove the “motivation for a particular crime, generally retaliation or intimidation” and “whether and how a crime was committed to benefit or promote a gang.” (*People v. Killebrew* (2002) 103 Cal.App.4th 644, 657.) An expert may testify concerning the culture, habits and psychology of gangs because these matters are sufficiently beyond the common experience that the opinion would assist the trier of fact. This includes providing testimony about gang membership, dress, hand signals, graffiti, territory, retaliatory practices. (*Gardeley, supra*, 14 Cal.4th at pp. 617; *People v. Valdez* (1997) 58 Cal.App.4th 494, 506.) Indeed, an expert may testify about whether a defendant acted for the benefit of a gang, even though the question is an ultimate factual

² We note that the Supreme Court has granted review in a case from Division Six of this court to determine whether substantial evidence supports convictions under section 186.22, subdivision (a) (active participation in criminal street gang), and true findings with respect to enhancements under section 186.22, subdivision (b), based on a gang expert’s testimony that three gang members who raped a young woman committed their crimes for the benefit of and in association with their gang. (*People v. Albillar*, review granted Aug. 13, 2008, S163905.) The Court’s opinion may restrict the scope of permissible testimony from gang experts with respect to the required showing under section 186.22 that a crime was committed for the benefit of, at the direction of, or in association with a criminal street gang and may also provide guidance as to the type and extent of evidence, in addition to an expert’s testimony, necessary to establish a crime is sufficiently gang-related to support a criminal street gang enhancement. Nonetheless, until and unless the Supreme Court issues an opinion providing differently, we are constrained by *Gardeley* and its progeny approving of the admissibility of such opinion testimony.

issue in the case, when these matters are beyond the jury's common experience. (*Valdez, supra*, 58 Cal.App.4th at pp. 507-509.)

“When conducting substantial evidence review, we consider the evidence in a light most favorable to the judgment and presume the existence of every fact that can reasonably be deduced from the testimony. (*People v. Lee* (1999) 20 Cal.4th 47, 58 [82 Cal.Rptr.2d 625, 971 P.2d 1001]; *People v. Crittenden* (1994) 9 Cal.4th 83, 139 [36 Cal.Rptr.2d 474, 885 P.2d 887].) We apply the same standard of review when a case relies in part on circumstantial evidence. (*People v. Lee, supra*, 20 Cal.4th at p. 58; *People v. Stanley* (1995) 10 Cal.4th 764, 793 [42 Cal.Rptr.2d 543, 897 P.2d 481].)” (*People v. Cortes* (2009) 174 Cal.App.4th 1335, 1345.)

With these principles in mind we turn to appellant's arguments.

A. Evidence of a Criminal Street Gang

Appellant claims the prosecution presented insufficient evidence that the charged crime was committed by a criminal street gang. More specifically, he argues that the prosecution failed to prove that one of Paramount Varrio 13's primary activities was the commission of crimes and that Paramount Varrio 13's group members separately or as a group engaged in a pattern of criminal gang activity. He contends that Detective Herrera's testimony regarding primary activities lacked adequate foundation because she gave no specifics as to any of those crimes and how she knew of Paramount Varrio 13's primary activities. Appellant further argues that Detective Herrera's testimony regarding Francisco Bautista, a paramount gang member, “does not provide sufficient evidence of the gang's primary activities or that the gang participated in a pattern of criminal activity by consistently and repeatedly committing those crimes.” We disagree.

a. Primary activities

In establishing the primary activities of a gang, the prosecution may utilize past or present acts; however, the occasional crimes that gang members commit are not sufficient to satisfy this prong of the criminal gang definition. (*In re Alexander L.* (2007) 149 Cal.App.4th 605, 611.) Proof of the primary activities may be provided by showing that gang members consistently and repeatedly commit offenses listed in the gang statute;

showing “conduct contemporaneous with the commission of a charged crime; *or* through *expert* testimony as long as the testimony is based on adequate foundation. (*People v. Cortes* (2009) 174 Cal.App.4th 1335, 1344.)

Detective Herrera has been on the police force for 15 years. She testified that her primary duties were to investigate the most violent criminal street gangs including Paramount Varrio 13 and to gather intelligence about them. She testified that through her investigations she determined that Paramount Varrio 13 has 101 gang members; their gang signs are P.V. 13 and the letter P, and that she has gotten to know many gang members who freely talk with her about their gang activities. She also explained that Paramount Varrio 13 had sub-sections and that in January 2007 it absorbed two crews -- “420” and “C.M.S.” After establishing this foundation, the prosecutor asked Detective Herrera about the gang’s primary activities. She said that the gang’s primary activities included “vandalism, robberies, [and] assaults to murder.” Detective Herrera also testified to Francisco Bautista’s gun possession conviction which she was aware of because her sergeant had arrested him for that charge on June 2007.

In our view, the prosecutor laid a sufficient foundation for the expert’s testimony. Her testimony about the gang’s criminal conduct coupled with her description of the specific crime of Francisco Bautista was minimally sufficient to prove the “primary activities” of the PV 13 within the meaning of the gang enhancement.

b. Pattern of Criminal Activities

“A ‘pattern of criminal gang activity’ is defined as ‘the commission, attempted commission, or solicitation of two or more of the [eight specified crimes], provided at least one of those offenses occurred after [September 23, 1988] and the last of those offenses occurred within three years after a prior offense, and the offenses are committed on separate occasions, or by two or more persons” (*In re Nathaniel* (1991) 228 Cal.App.3d 990, 1000-1001.)

The court in *In re Nathaniel* explained that “[t]he use of the disjunctive, [or], in defining ‘pattern of criminal gang activity’ means a pattern can be established by two or more incidents, each with a single perpetrator, or by a single incident with multiple

participants committing one or more of the specified offenses.” (*Id.* at p. 1003.) There is no requirement that instances be shown by “purposeful gang activity.” Moreover, the charged offense can be a predicate crime. (*People v. Gardeley, supra*, 14 Cal.4th at p. 625.)

Here, the prosecution met its burden of proving a pattern of criminal gang activity. The first qualifying crime is the underlying crime that the appellant committed on June 24, 2007. The second crime is Francisco Bautista’s conviction of unlawful possession of a loaded firearm for which he was arrested for on June 27, 2007.³ Both murder and possession of a loaded firearm are listed under section 186.22, subdivision (e). Both of these crimes occurred after the effective date of September 23, 1988, and within three years of each other. Therefore, the prosecution established the requirement of pattern of criminal activities as required by the statute.

B. Crime Committed for the Benefit of or in Association with a Criminal Street Gang

Appellant also claims that there was insufficient evidence that the murder was gang-related. He claims that although the crime may have been committed by individual gang members, the crime itself was unrelated to their gang activities and was not committed to benefit the gang or in association with a gang. We disagree.

This altercation may have begun as a minor, interpersonal conflict between Maszano and Navarro, but it quickly escalated into a gang-related incident once Chavez interjected himself into the situation, yelled out his gang affiliation, ordered Maszano to leave the area because it was Paramount Varrrio 13’s territory. Chavez then punched Maszano when he refused to leave. At that point, this situation changed from a small

³ It is unclear from the record before us whether Bautista’s gun possession occurred before or after Mr. DeAvila’s murder. However, before this court appellant makes no claim that the prosecutor failed to demonstrate a “pattern” of criminal activities because Bautista’s gun possession occurred *after* the murder of Mr. DeAvila. Instead he argued that the prosecutor failed to demonstrate a “pattern” of criminal activities because Bautista’s crime and Mr. DeAvila’s murder were isolated and occasional crimes that did not constitute a “pattern” of criminal conduct.

personal conflict to a violent confrontation involving a number of people which became about “respecting the gang, its members and territories.” (*People v. Medina* (2009) 46 Cal.4th 913, 925-927 [discussing the importance of respect to a gang and how disrespecting a gang can lead to a violent confrontation that can escalate to a gang-related offense]; see also *People v. Olguin* (1994) 31 Cal.App.4th 1355, 1367, 1383.)

Appellant’s argument to the contrary is not persuasive. Appellant relies on *People v. Martinez* (2004) 116 Cal.App.4th 753, *People v. Albarran* (2007) 149 Cal.App.4th 214, and *In re Frank S.* (2006) 141 Cal.App.4th 1192 for the contention that the prosecution did not meet its burden. However, these cases are distinguishable from the case at hand.

In *People v. Martinez*, the court determined that the charged burglary committed by a gang member was not gang-related under section 186.22. The court first established that the burglary is not a gang-related crime under section 186.30. (*People v. Martinez, supra*, 116 Cal.App.4th at p. 762.) The court stated that while the defendant’s gang membership and history of participation in gang activities or criminal offenses was significant in determining whether the crime was gang-related, there was no evidence linking the crime to his gang activities. The defendant’s accomplice was not a gang member and there was no expert testimony presented to explain the relationship of the burglary to the criminal street gang. (*Ibid.*) Thus, the court held that the crime was not gang-related. (*Ibid.*)

Here, unlike *People v. Martinez*, both appellant and his accomplice, Chavez, were members of Paramount Varrio 13. Additionally, Chavez announced his presence as well as his association to Paramount Varrio 13 before he punched Mr. Maszano. These facts along with Detective Herrera’s expert testimony distinguish this case from *People v. Martinez*.

Next appellant argues that the gang evidence was insufficient based on *People v. Albarran*. Appellant states in his brief that “[i]n *People v. Albarran* (2007) 149 Cal.App.4th 214, 226-227, gang evidence was held to be irrelevant and inadmissible to prove an alleged gang motive of ‘gaining respect’ where the offense was not committed

on gang turf and the offenders did not announce their presence or their purpose.” This statement is misleading. In *People v. Albarran*, this court did not conclude as a matter of law that an alleged gang motive of “gang respect” could never be proved where the crime was committed outside the gang’s turf and/or where the members failed to announce themselves. Instead, in that case, the gang evidence lacked probative value because the prosecution failed to show the crime itself was gang-related. (*People v. Albarran, supra*, 149 Cal.App.4th at p. 227.) Thus, the gang evidence presented, including the reference to the Mexican Mafia, was found to not be relevant to the issues presented to the jury. (*Id.* at p. 227.)

Here, however, we are convinced that this shooting was gang-related—that the appellant shot Mr. DeAvila because Mr. DeAvila and his friends had disrespected the PV 13 gang and in particular, Chavez, when Mr. DeAvila and his friends failed to leave the area after Chavez announced his affiliation and declared PV 13’s claim to the area. In contrast to *People v. Albarran*, the prosecution here presented sufficient evidence that this was a gang-related shooting, in gang territory, committed by known gang members who had announced their presence.

Last, appellant analogizes his case to *In re Frank S.* In *In re Frank S.*, the court found that absent any other evidence indicating why the underlying crime may be gang related, a gang member carrying a knife was not sufficient to support the gang allegation. (*In re Frank S., supra*, 141 Cal.App.4th at p. 1199.) In that case, the defendant, who was a member of the gang Nortenos and was traveling alone, was stopped by the police for riding through a red light on his bicycle. The defendant stated that he was carrying the knife for protection against a gang called Southerners. (*Id.* at p. 1195). The prosecution did not present any other evidence in addition to these facts apart from the gang expert’s testimony that the defendant carried the knife to benefit the Nortenos gang. (*Id.* at p. 1199.) This was simply not enough for the trier of fact to conclude that the defendant carried the knife to benefit the Nortenos. “The prosecution did not present any evidence that the minor was in gang territory, had gang members with him, or had any reason to expect to use the knife in a gang-related offense.” (*Ibid.*)

Everything missing to support a gang enhancement in *In re Frank S.*, is present in this case. First, appellant was not alone; he was accompanied by Chavez. Second, where as the defendant in *In re Frank* was stopped for riding his bicycle, here there was a confrontation. Chavez proclaimed his membership in Paramount Varrio 13, indicated that Tam's Burger was in Paramount Varrio 13's territory and punched Mr. Maszano while appellant shot and killed Mr. DeAvila.

Finally, appellant also attempts to distinguish between this case and *People v. Olguin* (1994) 31 Cal.App.4th 1355. In our opinion there are more similarities (than dissimilarities) between *People v. Olguin* and this case. In both cases gang members shouted out their gang affiliations and confronted the adverse party after the gang was disrespected. Following the same rationale, the factual dissimilarities that appellant tries to demonstrate by contrasting this case to other cases where there was sufficient evidence for gang enhancement is inconsequential. Moreover, the California Supreme Court cautioned against unduly emphasizing dissimilarities between cases while ignoring the similarities. (*People v. Medina* (2009) 46 Cal.4th 913, 925.).

In sum, the evidence provided in support of the contention that Mr. DeAvila was murdered for the benefit of, at the direction of or in association with Paramount Varrio 13 was sufficient for a jury to find true the gang enhancement allegation.

C. Expert Testimony on Gangs

Appellant contends that Detective Herrera improperly testified that the "appellant intended to promote the gang and enhance his own reputation" and in doing so testified to the specific intent of defendant Rodriguez. Preliminary, we note that as the Attorney General points out, by failing to raise this objection below, appellant did not preserve the issue for appeal. (See Evid. Code, § 353; *People v. Zepeda* (2001) 87 Cal.App.4th 1183, 1208 [defense counsel's general objection to entirety of gang expert testimony insufficient to preserve objection to expert opinion on issue of defendant's intent to benefit gang].) But even if appellant had preserved this objection, his argument would fail on the merits.

An expert may testify to his or her opinion based on a hypothetical as long as the hypothetical is rooted in the facts of the case. (*People v. Gardeley*, *supra*, 14 Cal.4th at p. 618.) In addition, it is also clear a jury can rely on such expert opinion and that such opinion is sufficient to support a finding of true on a gang enhancement allegation. In *Gardeley*, the Supreme Court held that, based on an expert's testimony that the details of an assault conveyed a "'classic' example of gang-related activity" to frighten residents of an area where the gang members sell drugs, a jury "could reasonably conclude that the attack on [the victim] by [gang members] was committed 'for the benefit of, at the direction of, or in association with' that gang, and 'with the specific intent to promote, further, or assist in . . . criminal conduct by gang members' as specified in the STEP Act." (*Id.* at p. 619.)

Here, the prosecution presented Detective Herrera with a hypothetical that was similar to the facts of the case. Detective Herrera testified based on this hypothetical that the murder of DeAvila was committed for the benefit and furtherance of the criminal street gang. She then explained that the murder benefitted the gang because it enhanced that gang's reputation and also the reputation of the gang members involved in the murder. Such testimony is proper. (*People v. Gonzalez* (2006) 38 Cal.4th 932, 946.)

Appellant, however, likens Detective Herrera's testimony to the improper testimony at issue in *People v. Killebrew* (2002) 103 Cal.App.4th 644. *People v. Killebrew* is distinguishable, however.

In *Killebrew*, an expert testified "that when one gang member in a car possesses a gun, every other gang member in the car knows of the gun and will constructively possess the gun." (*Killebrew*, *supra*, 103 Cal.App.4th at p. 652, fn. omitted.) This testimony provided the only evidence to establish the elements of the gang enhancement. (*Id.* at p. 658.) *Killebrew* found the expert's testimony regarding the minor's specific intent exceeded "the type of culture and habit testimony found in the reported cases." (*Id.* at p. 654.) Instead, the expert "testified to the subjective knowledge and intent of each occupant in each vehicle. Such testimony is much different from the expectations of gang members in general when confronted with a specific action." (*Id.* at p. 658.) The

expert's testimony "did nothing more than inform the jury how [the expert] believed the case should be decided." (*Ibid.*)

Unlike *People v. Killebrew*, Detective Herrera did not testify as to the subjective intent of appellant. Therefore, appellant's reliance on *Killebrew* was misplaced.

In our opinion, Detective Herrera's testimony was not improper.

D. Evidence of Specific Intent to Promote Other or Additional Criminal Conduct.

Appellant argues that there was insufficient evidence for the jury to conclude that the defendant had the specific intent to promote or further *other* criminal activity.

Appellant cites *Garcia v. Carey* (9th Cir. 2005) 395 F.3d 1099 for his contention that the prosecution had the burden to show that the defendant had the specific intent to further or promote future criminal activities. As the court stated in *People v. Hill* (2006) 142 Cal.App.4th 770, 774, and we agree, the Ninth Circuit Court in *Garcia* misinterpreted California law. The words of section 186.22 clearly state the defendant is required to have the specific intent to further or promote *any* criminal activity not *other*. (§ 186.22, subd. (b)(1).) Therefore, the prosecution did not have the burden to establish appellant's specific intent to further or promote future criminal activities.

DISPOSITION

The judgment is affirmed.

WOODS, Acting P. J.

We concur:

ZELON, J.

JACKSON, J.